IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4090 OF 2005

Shri. Khangaram @ Ramesh
Prabhuji Purohit ...Applicant

Vs.
The State of Maharashtra ...Respondent

Shri. A.H.H.Ponda for the Applicant.
Ms M. H .Mhatre A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : JULY 12, 2005.

P.C.:
1. Yesterday submissions of the Counsel appearing for the parties were heard and today it is kept for dictation of the order.

2. The Applicant is co-accused in an offence registered under Sections 489-A, 489-C read with section 120-B of the Indian Penal Code. The case of the prosecution is that the Police received information that the Applicant who was wanted in the above case would be coming near Thane Court. Accordingly, panchas were called. When the Applicant came near a hotel near Thane Court, he was nabbed by the raiding party. The Applicant was found to be in custody of ten notes of Rs.100/- which are genuine notes. The case of the prosecution is that the Applicant made a statement under section 27 of the Indian Evidence Act, 1872 pointing out his shop premises and the space therein where he has kept some

notes. The case of the prosecution is that 54 counterfeit currency notes of Rs.500/- denomination were recovered at the instance of the Applicant from the said place.

3. The learned Counsel appearing for the Applicant submitted that even taking the prosecution story as correct, at highest the offence under section 489-C of the Indian Penal Code is attracted in so far as the Applicant is concerned which is a bailable offence and there is no material whatsoever to show that Section 489-B can be attracted. He submitted that even assuming that the statement of the Applicant under section 27 of the Indian Evidence Act is admissible in evidence, it is obvious that the premises from which the cash was recovered were not locked. He submitted that the Sessions Judge has declined to addres himself to the controversy regarding the applicability of the section 489-B or 489-C of the Indian Penal Code.

4. The learned A.P.P. has opposed the Application by placing reliance on a copy of order dated 4th May, 2005 passed in the Bail Application filed by the co-accused by which the said Application has been rejected. The copy of the said order has been annexed to the Application made by the Applicant.

5. I have considered the rival submissions. It is true that at the time when the Applicant was nabbed he was found to be in possession of genuine currency notes. The case of the Applicant is that even assuming that recovery is true at highest, it indicates that the Applicant was in possession of counterfeit currency notes and therefore, section 489-B of the said Code will not be attracted. Counterfeit currency notes have been recoverd at the instance of the Applicant. It is to be noted here that the Applicant is charged with criminal conspiracy alongwith the co-accused. By order passed by this Court on 4th May, 2005, trial has been expediated by directing the learned Trial Judge to treat the case as High Court expediated case.

6. Considering all these aspects of the matter, no case is made out for grant of bail. The application is rejected. As directed by this Court, the learned Trial Judge will ensure expeditious disposal of the trial by treating it as High Court expeditious case. If the trial is not concluded within a period of six months due to any default on the part of the prosecution, the Applicant will be in entitled to apply afresh for grant of bail.

. Parties to act upon an authenticated copy of this order.

JUDGE